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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#6/Electiva
9/25/02
Admitted

Filing date: October 10, 2000
Inventors: Nower et al.
Title: Accelerometer Based Angular Position Sensor
Serial Number: 09/685,317
Examiner: Tung S. Lau
Group Art Unit: 2863
Attorney docket: 53199.US

AMENDMENT B

Box Amendment
Assistant Commissioner for Patents
Washington DC 20231

Sir:

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In response to the office action dated August 9, 2002, applicants respond as follows.

REMARKS

Claims 1-22 are pending in the case and subject to a restriction requirement. Applicants hereby elect with traverse to prosecute the claims of group II, including claims 11-17. Thus, please withdraw claims 1-10 and 18-22 from consideration.

Applicants submit that restriction is not required by 35 U.S.C. § 121, as suggested in the office action. Congress wisely granted the *discretion* to restrict applications. According to 35 U.S.C. § 121 "... the Commissioner *may* require the application to be restricted...." (emphasis added). Likewise, MPEP § 803 lists two criteria that must be present for restriction to be proper:

1. The invention must be independent or distinct; *and*
2. There must be a serious burden on the examiner if restriction is not required.